



**CITY OF SUNNYVALE  
REPORT  
Planning Commission**

**September 13, 2004**

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**SUBJECT:**           **2004-0453 - Rodolfo and Elvira Cardona** [Appellants]:  
Appeal of a decision by the Director of Community  
Development approving a Miscellaneous Plan Permit to allow  
a three-foot high fence in the required reducible front yard.  
The property is located at **816 Tamarack Lane** in an R-0  
(Low Medium Density Residential) Zoning District. (APN:  
213-30-030)

**REPORT IN BRIEF**

**Existing Site**           Single Family Residential

**Conditions**

**Surrounding Land Uses**

North                   Single Family Residential

South                   Single Family Residential

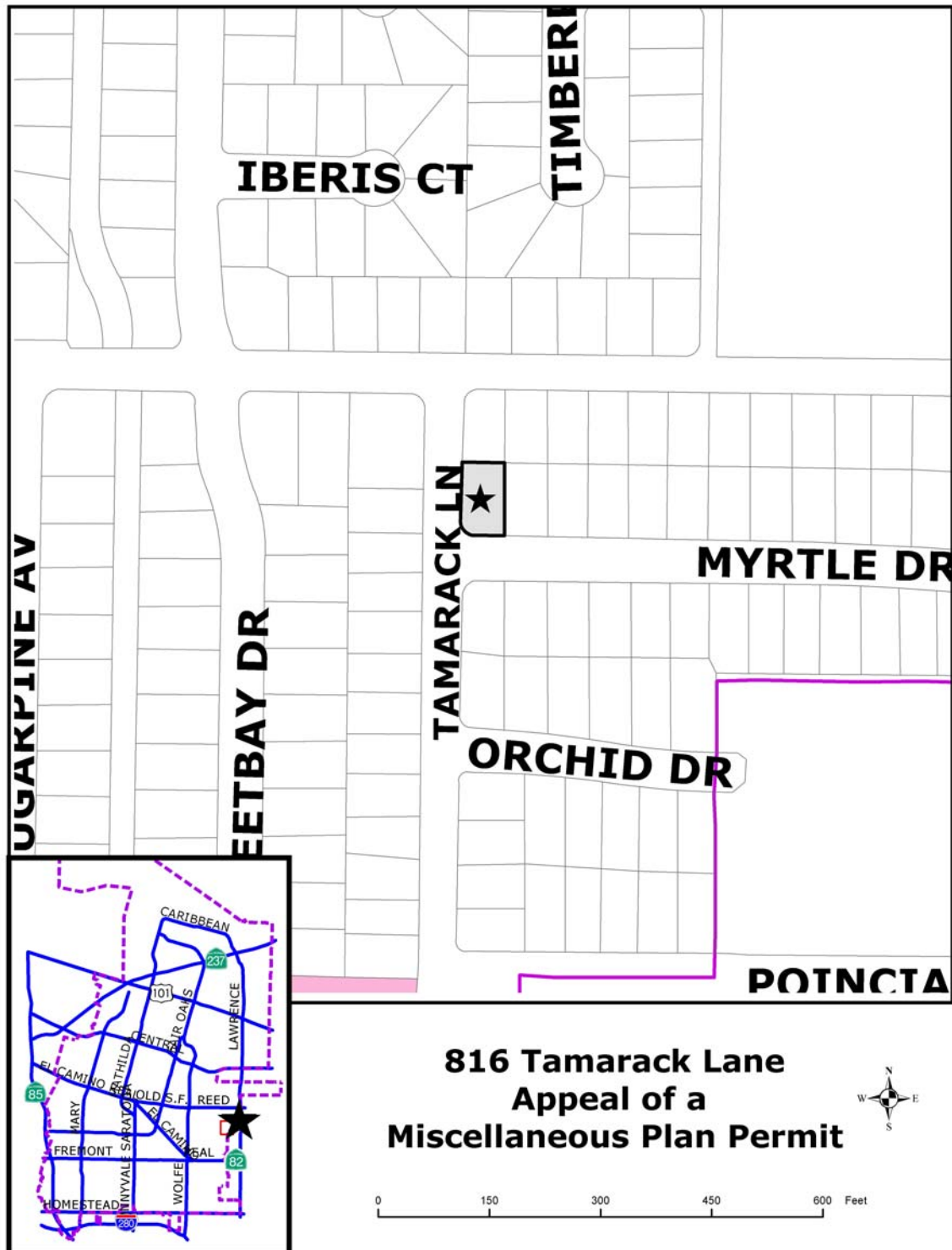
East                    Single Family Residential

West                   Single Family Residential

**Issues**                Neighborhood Aesthetics

**Environmental**       A Class 11 Categorical Exemption relieves this project  
**Status**                from California Environmental Quality Act provisions  
and City Guidelines.

**Staff**                 Deny the appeal and uphold the decision of the  
**Recommendation**   Director of Community Development to approve the  
Miscellaneous Plan Permit requiring a change in  
design from a chain link to an alternative material.



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Residential Low Density	Same	---
<b>Zoning District</b>	R-0	Same	---
<b>Lot Size (s.f.)</b>	5,914	Same	6,000 min.

**ANALYSIS****Background**

**Previous Actions on the Site:** The following table summarizes previous planning applications related to the subject site.

<b>File Number</b>	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
1975-0195	Variance to allow a front yard setback of 13 feet where 20 is required (reducible front yard)	Administrative Hearing / Approved	10/8/75

The above referenced Variance pre-dates current Code requirements regarding the reducible front yard (nine foot setback is required).

**Description of Proposed Project**

In May 2004, the Neighborhood Preservation Division was notified of a fence that was constructed without a permit. The original application was for a four foot chain link fence within the front and reducible front yard. Due to corner vision triangle requirements, only a three foot fence may be constructed within this area. The applicant has agreed to reduce the height of the fence to three feet per Condition of Approval #2; however, an appeal was filed regarding Condition of Approval #3, which requires that an alternative material be utilized for the fence.

**Environmental Review**

A Class 11 Categorical Exemption for accessory structures relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Appeal of a Miscellaneous Plan Permit**

**Location:** The chain-link fence is located on a corner lot within the front yard and reducible front yard of the property. (See Site Plan in Attachment #3.)

**Vision Triangle:** The corner lot vision triangle is created by measuring 40 feet along each property line from the corner where the two street sides of the property line meet. Connecting these two lines with a diagonal line completes the vision triangle. As noted previously, a three foot maximum height fence may be constructed within this area. Condition of Approval #3 requires compliance to this requirement.

**Design:** The proposed fence, already built, consists of chain-link material and is four feet in height. (See photos of subject property in Attachment #4.) A gate is located in the front yard to allow access to the home via a paved walkway. The applicant has appealed Condition of Approval #4 that requires an alternative material to be utilized for the fence.

<b>Design Policy or Guideline (Architecture)</b>	<b>Comments</b>
<i>3.11 G. Fencing along front property lines and along side property lines within front yard setback areas should not exceed three feet. Open wood fencing is the preferred solution along property lines</i>	Per Condition of Approval #3, the fence will be reduced to three feet. Staff recommends Condition of Approval #4 that an alternative material, such as wood or iron, be utilized for the fence.

**Landscaping:** There are no proposed landscaping modifications with this proposal. If a chain link fence design is approved, staff recommends that additional landscaping be planted along the perimeter of the fence to soften the visual appearance (Condition of Approval #4).

**Compliance with Development Standards**

The proposed fence meets standard development requirements with a reduction of height to three feet within the corner vision triangle, per Condition of Approval #3.

**Comments on the Appeal**

The applicant has submitted a letter stating the appeal of the condition to utilize an alternative fence material (Attachment #5). The applicant states that the chain-link fence design is compatible to other properties in the neighborhood. The proposed (existing) fence was built with the intent to provide safety for the owner's child. Staff concurs that a variety of fences,

including chain-link, have been constructed within the neighborhood; however, many of the fences have either not obtained the proper permits or pre-date current design requirements that discourage this material. The proposed fence was recently built and should be considered through the Single Family Design Guidelines adopted by City Council in January of 2003. Staff finds that, due to the location of the fence and the significant visual impact to the immediate area, a chain-link fence is not appropriate. Staff finds that a design incorporating a wood or iron material would aesthetically improve the site and provide a beneficial streetscape to the neighborhood. As noted in the "Landscaping" section of the report, if the Planning Commission finds that a chain-link fence is acceptable, staff recommends that increased landscaping in the form of shrubs or vines should be planted along the perimeter of the fence (Condition of Approval #4).

### **Findings, General Plan Goals and Conditions of Approval**

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Staff is recommending denial of this Appeal because the Findings (Attachment #1) for this Miscellaneous Plan Permit could not be made; however, if the Planning Commission is able to make the required Findings permitting the chain link material, staff is recommending the Conditions of Approval in Attachment #2.

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

### **Fiscal Impact**

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No fiscal impacts other than normal fees and taxes are expected.

### **Public Contact**

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<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"> <li>• Published in the <i>Sun</i> newspaper</li> <li>• Mailed to eight adjacent property owners of the project site</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City of Sunnyvale's Website</li> <li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City's official notice bulletin board</li> <li>• City of Sunnyvale's Website</li> <li>• Recorded for SunDial</li> </ul>

Staff has received a letter from an adjacent property owner located at 1105 Myrtle Drive. (See Attachment #7)

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**Alternatives**

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1. Deny the appeal of the Miscellaneous Plan Permit and uphold the decision of the Director of Community Development.
2. Grant the appeal of the Miscellaneous Plan Permit with the recommended conditions of approval.
3. Grant the appeal of the Miscellaneous Plan Permit with modified conditions of approval.

**Recommendation**

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Recommend Alternative 1.

Prepared by:

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Ryan Kuchenig  
Project Planner

Reviewed by:

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Fred Bell  
Principal Planner

Approved by:

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Trudi Ryan  
Planning Officer

Attachments:

1. Recommended Findings
2. Recommended Conditions of Approval
3. Site Plan
4. Site Photo
5. Appeal Letter from the Applicant
6. Additional photos submitted by the Applicant
7. Letter from an adjacent neighbor

**Single Family Home Design Techniques – Basic Design Principles**

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<b>Basic Design Principle</b>	<b>Comments</b>
<i>3.11.G. For side property lines abutting a public street, low fencing is encouraged.</i>	The proposed fence height would be three feet tall as conditioned.
<i>3.11.G. Chain link fencing is strongly discouraged.</i>	The proposed fence is constructed of chain link. Condition of Approval #4 requires an alternative material to be utilized. The applicant may utilize wood or a decorative iron material. The final design is subject to review and approval by the Director of Community Development.
<i>2.2.5 Respect the predominant materials and character of front yard landscaping.</i>	Staff recommends additional front yard landscaping if a chain-link material is approved. (C.O.A. #4) Shrubs or vines may help soften the visual appearance of the fence.

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**Findings – Miscellaneous Plan Permit**

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The Director or Planning Commission may approve any Miscellaneous Plan Permits, as it finds desirable in the public interest, upon finding that the project will either:

1. *Attain the objectives and purposes of the General Plan of the City of Sunnyvale.*

The proposed fence, as conditioned, meets the objectives and purposes of the General Plan of the City of Sunnyvale. The reduced height of the fence and the use of an alternative wood or decorative iron design meet the objectives of the Sunnyvale Municipal Code and the "Single Family Home Design Techniques".

2. *Ensure that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of adjacent properties.*

The use of a front yard fence is compatible to neighboring properties in the vicinity. With modifications, as noted in the Conditions of Approval recommended by staff, the fence will not have a negative visual impact to the surrounding neighborhood.

**Recommended Conditions of Approval – Miscellaneous Plan Permit**

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. The Miscellaneous Plan Permit shall expire in one year as measured from the date of approval by the final review authority at a public hearing if not exercised.
2. The proposed fence height shall be reduced to a maximum of 3 feet.
3. The fence shall utilize alternative materials such as wood or iron rail. A final design shall be submitted for review and approval by the Director of Community Development.
4. Additional landscaping, in the form of shrubs or vines, shall be planted along the perimeter of the fence, if a chain-link fence is approved. New vegetation shall be properly maintained, so that it does not exceed three feet within the corner vision triangle.